THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.4069 of 2007

Dt:23.03.2007

Between:

Sri Venkateswara Associates.

.. Petitioner

and

The Andhra Pradesh Dairy Development Co-operative Federation Limited, Lalapet, Hyderabad, rep., by its Managing Director.

.. Respondent

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.4069 OF 2007

ORDER:

The respondent issued a tender notice, dated 14.12.2006, inviting tenders, for appointing dairy parlour operators, for sale of Vijaya milk and milk products, in stalls at various railway stations in the State of Andhra Pradesh. The tender schedule contained the places, where the stalls are proposed to be established. The location of the stalls is to be finalized in consultation and with the approval of Indian Railways Catering and Tourism Corporation (IRCTC). The tender process comprises of two stages viz., technical bid and financial bid. The petitioner submitted its tenders for ten proposed stalls. Its grievance is that the location pointed out in the tender schedule is so vague and uncertain, that one cannot

understand it, with the required amount of precession. It is also contended that though the respondent informed that the financial bids will be opened, within thirty days from the date of opening of technical bids, even after four months, the step was not complied with. Certain other ancillary contentions are also urged.

Heard Sri S.R.Ashok, the learned senior counsel appearing for the petitioner and Sri Rajeswar Rao, the learned Standing Counsel for the respondent-Corporation.

The control of the respondent over the selection of places and stalls is not absolute. It has to depend upon the IRCTC. It may be true that the location of the stalls is pointed out in not so accurate terms, but the proposed tenderers are required to take note of the situation and the very fact that the petitioner submitted tenders discloses that it has some understanding about it. Further, from the submissions made on behalf of the respondent, it is clear that in a given case, the location of the stalls may slightly be changed, to suit the convenience of the travelling public, the respondents and the tenderers.

From the communication that emanated from the respondent, it is clear that they have undertaken to positively open the financial tenders, within thirty days from the date of which, the technical tenders were

opened. There is lapse on the part of the respondent in adhering to this schedule. The long lapse of time has its own implication upon the viability of the tenders, having regard to the circumstances that may intervene. However, this Court does not find the violation to be so serious, as to nullify the entire process.

The petitioner would face detriment, if only he emerges as successful tenderer for the stalls, for which he submitted tenders, and the understanding of the location of the stalls is at variation with the actual place, which is to be earmarked for it. In such an event, the petitioner can certainly make a representation to the concerned authorities.

The learned Standing Counsel stated that wherever any difficulty had arisen for the location of the stalls, proper exercise was undertaken, to ensure that the interests of all are accommodated, in consultation of the IRCTC.

For the foregoing reasons, the Writ Petition is disposed of, directing that in case, the petitioner emerges as the successful tenderer, for any of the stalls, for which he submitted tenders, and it finds that the place earmarked for establishing the stall is at variance with what is indicated in the tender schedule, it shall be open

to it to make representation to the respondent and IRCTC, who, in turn, shall examine the same on its own merits. There shall be no order as to costs.

_____

23.03.2007

JSU